

## **760 CMR: DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT**

### **760 CMR 24.00: MASSACHUSETTS HOUSING STABILIZATION FUND**

#### Section

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#### 4:01: Scope, Purpose, and Applicability

The Housing Stabilization Fund (HSF) was created by St. 1993, c. 494, budget line item 3722-8900 (the “HSF I Legislation”), and continued by St, 1998, c. 257, budget line item 7004-8987 (the “HSF II Legislation”), ~~and~~ St. 2002, c. 244, budget line item 7004-7014 (the “HSF III Legislation”), ~~and St. 2005, c.53, budget line item 7004-0022 (the “HSF IV Legislation”).~~ The Department of Housing and Community Development was authorized to use up to \$50 million (by the HSF I Legislation), \$41 million (by the HSF II Legislation), ~~and~~ \$50 million (by the HSF III Legislation), ~~and \$100 million (by the HSF IV Legislation)~~ in general obligation bond funds for the purpose of stabilizing and reinvesting in cities and towns by undertaking projects to develop and support affordable housing developments and homeownership affordability through the acquisition, preservation and rehabilitation of affordable housing. The Housing Stabilization Fund provides loans or grants to Eligible Projects (Projects) sponsored and developed by government agencies, local housing authorities, community development corporations, limited equity cooperative housing corporations ~~if funded pursuant to the HSF II, ~~or~~ HSF III, or HSF IV Legislation,~~ or by community development housing organizations if funded pursuant to the HSF III ~~or HSF IV~~ Legislation. Funds may be used in connection with foreclosed and distressed properties, and may include costs of demolition in accordance with an approved Neighborhood Revitalization Plan. 760 CMR 24.00 shall be effective **March 30, 2006**.

#### 24.02: Definitions

**Affordable Housing Restriction** - An Affordable Housing Restriction as defined by M.G.L. c. 184, § 31, which runs with the land and is held by or for the benefit of one or more of a Government Agency, an LHA, a CDC, DHCD, or, for Eligible Projects funded pursuant to the HSF III ~~or HSF IV~~ Legislation, a Community Development Housing Organization, restricting the use of an Eligible Project. Any such restriction shall meet the requirements of 760 CMR 24.05 or more stringent requirements if prescribed by the Department.

**Application** - An application, including a description of an Eligible Project (Project) for which Housing Stabilization Fund (HSF) assistance is requested, in the form and containing the information, including all sources of financing, required by the HSF Guidelines.

**Chief Elected Official** - The mayor of a city, or the chairman of the board of selectmen of a town acting under a vote of the requisite number of selectmen.

Community Development Corporation (CDC) - A non-profit corporation as defined in M.G.L. c. 40F, § 1, notwithstanding whether it is repealed. To participate in a HSF Project as a developer or member of a development team, a CDC may be required by the Department to be an Internal Revenue Code section 501(c)(3) organization. A CDC may be a Developer or may subcontract with one or more for-profit or non-profit organizations to be the Developer.

Community Development Housing Organization (CHDO) – A non-profit organization that has been certified by the U. S. Department of Housing and Urban Development (HUD) as a “community development housing organization” as defined in 92 C.F.R. §92.2.

**CEDAC – The Community Economic Development Assistance Corporation established by M.G.L. c.40H.**

Department - the Department of Housing and Community Development (DHCD).

Developer - the developer of an Eligible Project and its permitted successors and assigns. The Developer may also be the owner of the Project.

Eligible Project (Project) - A project which meets the eligibility criteria contained in 760 CMR 24.00 and the HSF Guidelines.

Extremely Low Income Person or Family – A person or family whose income is less than or equal to 30% of the median income for the family size in the pertinent region as determined by the Secretary of HUD or successor agency for federal housing programs.

Government Agency - an agency, department, board, commission, authority or instrumentality of the Commonwealth of Massachusetts or any political subdivision thereof. A Government Agency may be a Developer or may subcontract with one or more for-profit or non-profit organizations for such organizations to be the Developer.

HSF - Housing Stabilization Fund, established pursuant to the HSF I Legislation and continued by the HSF II Legislation, ~~and~~ the HSF III Legislation, **and the HSF IV Legislation.**

HSF Guidelines - Guidelines issued from time to time by the Department that clarify and elaborate upon 760 CMR 24.00.

Limited Equity Cooperative Housing Corporation - A limited equity cooperative housing corporation created pursuant to M.G.L. c.157B.

Local Housing Authority (LHA) - A local housing authority created pursuant to M.G.L. c. 121B, § 3, prior statute or special act. A LHA may be a Developer or may subcontract with for-profit or non-profit organizations to be the Developer.

Low or Moderate Income Person or Family - An individual or family whose income is less than or equal to 80% of the median income for the family size in the pertinent region as determined by the Secretary of the U.S. Department of Housing and Urban Development (HUD) or successor agency for federal housing programs.

**MassHousing - Formerly the Massachusetts Housing Finance Agency, established by St. 1966, c.708.**

### 24.03: Eligible Recipients

Any Government Agency, LHA, CDC, or, for Eligible Projects funded pursuant to HSF II, ~~or~~ HSF III, ~~or~~ HSF IV, Limited Equity Cooperative Housing Corporation, or, for Eligible Projects funded pursuant to HSF III ~~or~~ HSF IV, CHDO, shall be eligible to receive a HSF loan or grant to carry out an Eligible Project and may be a Developer or may subcontract with one or more for-profit or non-profit organizations for such organizations to be the Developer. The Community Economic Development Assistance Corporation, established by M.G.L. c.40H, (CEDAC) or the Massachusetts Housing Partnership Fund, established by St. 1985, c.405, s.35, (MHP) shall be eligible to receive a HSF grant for a Project described in 760 CMR 24.04(2) and may make a loan for such a Project or subcontract with other nonprofit or for-profit organizations to make such a loan.

### 24.04: Eligible Projects (Projects)

(1) The Department may make HSF loans and grants:

- (a) to acquire, preserve, and rehabilitate affordable rental and ownership housing, including foreclosed and distressed properties and other properties;
- (b) to demolish privately-owned buildings as provided in the HSF I, HSF II, ~~or~~ HSF III, ~~or~~ HSF IV Legislation,, and, in connection with such demolition, to undertake new construction of housing for Low or Moderate Income families in the area in which such demolition took place, as provided in the HSF II, ~~or~~ HSF III, ~~or~~ HSF IV Legislation;
- (c) to qualify as matching contributions under Section 220 of the HOME Investment Partnership Act, Title II of the Cranston Gonzalez National Affordable Housing Act;
- (d) if funded pursuant to the HSF I, ~~or~~ HSF II, ~~or~~ HSF IV Legislation, for Soft Second Mortgage Loans as described in the HSF I, ~~or~~ HSF II, ~~or~~ HSF IV Legislation;
- (e) if funded pursuant to the HSF II, ~~or~~ HSF III, ~~or~~ HSF IV Legislation for the rehabilitation of one to four-family properties owned and occupied by persons of low or moderate income, and for the acquisition and rehabilitation of one to four-family properties by persons of low and moderate income, provided that DHCD finds that such a project relies to the greatest extent possible on bank financing and other taxable financing for acquisition and rehabilitation;
- (f) if funded pursuant to the HSF II Legislation, to preserve the affordability of existing privately-owned housing subject to a state or federally-assisted Massachusetts Housing Finance Agency mortgage where the prepayment of that mortgage would lead or has led to the termination of a use agreement for low-income housing. HSF funds may be used for a capital access reserve to provide loan guarantees to facilitate the purchase of such housing, and the Department may contract with the Massachusetts Housing Finance Agency to administer such a program of loan guarantees;
- (g) if funded pursuant to the HSF III ~~or~~ HSF IV Legislation, for second mortgage loans for the acquisition and rehabilitation of small multifamily rental properties receiving primary financing from the MHP Permanent Plus Program. Such loans shall be administered through contracts with MHP. All housing acquired and rehabilitated pursuant to this paragraph shall meet one of the following minimum requirements:

- (i) at least 20% of the total units shall be rented to individuals or families whose income is less than or equal to 50% of the median income for the family size in the pertinent region as determined by HUD or successor for federal housing programs, or

(ii) at least 40% of the total units shall be rented to individuals or families whose income is less than or equal to 60% of the median income for the family size in the pertinent region as determined by HUD or successor for federal housing programs, or

(iii) at least 50% of the total units shall be rented to Low or Moderate Income Persons or Families.

(h) if funded pursuant to the HSF IV Legislation, to preserve or restore the affordability of housing that is or was subject to the prepayment of a state or federally assisted mortgage, or is receiving project-based rental assistance under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f) that is expiring, or has received other project-based federal or state subsidies that are terminating or have terminated, including the expiration of federal low-income housing tax credits, where such mortgage prepayment or expiration of federal or state assistance would lead or has led to the termination of a use agreement for low-income housing. The Department will consult with nonprofit housing organizations, MassHousing, and CEDAC to identify those projects at greatest risk of prepayment or payment of state or federal subsidy loans, termination of subsidies and use restrictions, or non-renewal of rental assistance. The Department will give priority to projects based on the following at-risk criteria:

(i) Housing at risk of losing affordability restrictions due to the potential for the prepayment of its mortgage

(ii) Housing in which a project-based rental assistance contract has expired or is expiring

(iii) Occupied projects with substantial capital needs

(h) for any other purpose permissible under the HSF I, HSF II, ~~or~~ HSF III, or HSF IV Legislation.

(2) The Department shall fund a revolving loan fund at one time or from time to time in such amount or amounts as it shall determine reasonable and prudent under all the circumstances, including the availability of funding for other HSF needs; repayments of loans from this revolving loan fund shall be retained by the Department and lent to other qualifying borrowers. The Department may make HSF loans from this revolving loan fund for the repair and maintenance of privately owned residential buildings for which a nonprofit receiver has been appointed by a court pursuant to M.G.L. c.111 s.127I if:

(a) the housing is abandoned or severely distressed;

(b) the housing is located in a primarily low or moderate-income neighborhood;

(c) the HSF loan is necessary to make repairs required for the housing to comply with the state sanitary code and to maintain its habitability;

(d) the court that has appointed the receiver enters an order:

(i) authorizing the receiver to borrow HSF funds up to the amount of the proposed HSF loan, on the anticipated terms, and to assign its priority lien to the lender to secure the HSF loan;

(ii) stating that the lender, upon the borrower's breach of the conditions of the HSF loan, may foreclose on its interest under the lien and setting forth an adequate process for such a foreclosure; and

(iii) requiring the receiver of the housing to repay any balance of the HSF loan in full upon termination of the receivership, unless the receiver shall have previously repaid the HSF loan in full;

(3) For loans or grants made pursuant to the HSF I Legislation, at least 30% of the HSF funds expended in any year shall be used to provide homeownership opportunities to Low or Moderate Income Persons or Families.

(43) The Department shall provide funds pursuant to the HSF III and HSF IV Legislation ~~in the aggregate not exceeding \$1 million~~ for loans to nonprofit developers for predevelopment assistance to Eligible Projects including loans for acquisition, financing or other holding costs, interim management and operating costs, or to secure other financing obtained by CEDAC to support such costs. Such predevelopment assistance shall be administered by the Department through contracts with CEDAC.

(i) For HSF III Projects receiving such predevelopment assistance, at least 50% of the total housing units in the Project shall be deemed HSF-assisted and shall meet the requirements of 760 CMR 24.05 (2) as follows:

(a) For the first 40 years after the HSF loan is provided, at least 50% of the units in the Project shall be rented to or owned by Low or Moderate Income Persons or Families, and of such 50% of housing units at least 50% (that is, 25% of the total housing units) shall be rented to or owned by Extremely Low Income Persons or Families.

(b) After the first 40 years, 50% of the units in the project shall meet the affordability requirements of 760 CMR 24.05 (2) (b).

(ii) For HSF IV Projects receiving such predevelopment assistance, at least 50% of the total housing units in the Project shall be deemed HSF-assisted and shall meet the requirements of 760 CMR 24.05(3) as follows: for a minimum of 50 years after the HSF loan is provided, at least 50% of the units in the Project shall be rented to or owned by Low or Moderate Income Persons or Families, and of such 50% of housing units at least 50% (that is, 25% of the total housing units) shall be rented to or owned by Extremely Low Income Persons or Families.

(5) The Department shall provide funds pursuant to the HSF III-and HSF IV Legislation in the amount of at least \$5 million in the aggregate (for each of HSF III and HSF IV) for housing for persons 60 years of age and older, which may include housing developed pursuant to 12 U.S.C. 1701q (Supportive Housing for the Elderly (“Section 202”)).

(6) In reviewing applications for HSF IV funding, the Department will give consideration to the needs of urban, suburban, and rural areas for affordable housing with an emphasis on regional needs for such housing.

#### 24.05: Acquisition, Preservation, and Stabilization

All housing acquired, preserved, or stabilized by HSF funds shall meet the following requirements, except for housing meeting the requirements of 760 CMR 24.04 (2):

(1) For Projects funded pursuant to the HSF I or HSF II Legislation:

(a) For the first 20 years after a HSF loan or grant is provided, substantially all of the assisted units shall be rented to or owned by Low or Moderate Income Persons or Families.

(b) After the first 20 years, the assisted units may be rented or sold to persons or families whose adjusted income is less than or equal to 100% of the median income for the family size in the pertinent region as median income is determined for federal housing programs: provided that, if the units are sold, they shall remain subject to such affordability restrictions as determined by the Department to be reasonable and necessary to maintain long-term affordability.

(2) For Projects funded pursuant to the HSF III Legislation:

(a) For the first 40 years after a HSF loan or grant is provided, substantially all of the assisted units shall be rented to or owned by Low or Moderate Income Persons or Families, and not less than 25% of the assisted units shall be rented to or owned by Extremely Low Income Persons or Families unless the Department has made a determination at the end of the relevant fiscal year in accordance with the HSF III Legislation that it is not feasible to require 25% of assisted units to be so reserved.

(b) After the first 40 years, the assisted units may be rented or sold to persons or families whose adjusted income is less than or equal to 100% of the median income for the family size in the pertinent region as median income is determined for federal housing programs: provided that, if the units are sold, they shall remain subject to such affordability restrictions as determined by the Department to be reasonable and necessary to maintain long-term affordability. Notwithstanding anything in this paragraph, an owner may not terminate the tenancy or refuse to renew the lease of the tenant of an assisted rental unit except:

- (i) for serious or repeated violations of the lease;
- (ii) for violations of applicable federal, state, or local law, or (iii) for other good cause.

(3) For Projects funded pursuant to the HSF IV Legislation:

(a) For the first 50 years after a HSF loan or grant is provided, substantially all of the assisted units shall be rented to or owned by Low or Moderate Income Persons or families, and not less than 25% of the assisted units shall be rented to or owned by Extremely Low Income Persons or Families unless the Department has made a determination at the end of the relevant fiscal year in accordance with the HSF IV Legislation that it is not feasible to require 25% of assisted units to be so reserved.

(b) If the assisted units are sold, they shall remain subject to such affordability restrictions as determined by the Department to be reasonable and necessary to maintain long-term affordability. Notwithstanding anything in this paragraph, an owner may not terminate the tenancy or refuse to renew the lease of the tenant of an assisted rental unit except:

- (i) for serious or repeated violations of the lease;
- (ii) for violations of applicable federal, state, or local law, or (iii) for other good cause.

(43) **HSF III Projects** - Purchase Option and First Refusal Option: For Eligible Projects funded pursuant to the HSF III Legislation, the Department shall be granted a purchase option and a first refusal option to purchase the Project:

(a) **Purchase Option:** Upon the expiration of the term of the Affordable Housing Restriction, the Department shall have an option to purchase the Project from the owner at a price equal to the then-current appraised value of the Project less the total outstanding balance of all principal, interest and any other charges payable under the HSF III loan (as more fully described in the HSF II Legislation and the documents evidencing the HSF III funding, the “Purchase Option”). The appraised value of the Project shall be determined in the manner described in the HSF III Legislation. The Department may exercise the Purchase Option by sending notice of its intention to exercise the Purchase Option to the owner within 120 days after the expiration of the term of the affordability restrictions imposed by the Affordable Housing Restriction (the “Option Exercise Deadline”).

(b) **First Refusal Option:** If at any time the owner of a Project wishes to sell or otherwise dispose of (“transfer”) the Project where the Department has not previously exercised the Purchase Option, the owner shall send a notice to the Department by regular and certified mail, return receipt requested, setting forth the owner’s intention to sell or otherwise dispose of the Project and the terms of any bona fide offer by a third party to purchase the Project (the “Owner’s Notice”). The Department shall have the right to purchase the Project at the same price and on the same terms as those contained in such bona fide offer (as more fully described in the HSF III Legislation and the documents evidencing the HSF III funding, the “First Refusal Option”). The Department may exercise the First Refusal Option by sending notice to the owner of its intention to exercise the First Refusal Option by certified mail and recording/filing a copy of such notice in the registry of deeds or registry district of the land court within 120 days after its receipt of the Owner’s Notice. If the Department fails to exercise the First Refusal Option by such deadline, the First Refusal Option shall automatically terminate; however, if the sale contemplated in the offer by a third party is not effected on the same terms and conditions as those contained in the offer by a third party within six months after the Department’s receipt of the Owner’s Notice, the First Refusal Option shall be revived.

(c) The Department may assign the Purchase Option or the First Refusal Option to a Qualified Developer. A Qualified Developer is a developer who:

- (1) has completed a Housing Stabilization Fund Application (or such equivalent application as may be in use at the time of the assignment) (“Application”) with respect to its proposed purchase of the Project; the Department will issue a “Notice of Project Availability” that will include instructions for completing an Application for this purpose;
- (2) has been selected to purchase the Project based on the Department’s review and underwriting of the Application;
- (3) agrees that, upon purchasing the Project, it will execute an Affordable Housing Restriction providing for the Project to remain an Eligible Project for a term of at least 40 years.
- (4) provides any due diligence materials not part of the Application that may be required by the Department.

(d) If the Department exercises the Purchase Option, the Department or its assignee shall have 120 days after the expiration of the Option Exercise Deadline (i.e., 240 days after the term of the affordability restrictions imposed by the Affordable Housing Restriction) to purchase the Project. If the Department exercises the First Refusal Option, the Department or its assignee shall have 120 days after the expiration of the First Refusal Option period (i.e., 240 days after the Department's receipt of the Owner's Notice) to purchase the Project. Promptly upon request by the Department or its assignee, the owner will provide the Department or its assignee with such due diligence material and opportunity to inspect the Project as would be reasonably required by any third-party purchaser. The date for closing under the Purchase Option or the First Refusal Option may be extended by agreement of the parties and the agreed upon extension shall be recorded/filed in the registry of deeds or registry district of the land court. The Department or its assignee may extend the date for closing to a reasonable date if it determines that additional time is needed due to delays in closing preparations caused by the owner. After exercising the Purchase Option or First Refusal Option, the Department may at any time terminate the Purchase Option or First Refusal Option if it determines it is not in the best interests of the Department to effect the purchase (but such termination right shall apply to DHCD only, and not to any assignee).

(5) **HSF IV Projects – First Refusal Option:** For Eligible Projects funded pursuant to the HSF IV Legislation, a city, town, LHA, or the Department shall have a first refusal option to purchase the Project:

(a) If property on which the Project is located was previously leased or sold to an owner by a city, town, or LHA, the owner shall send a notice to the city, town, or LHA by regular and certified mail, return receipt requested, setting forth the owner's intention to sell, transfer, or otherwise dispose of the Project and the terms of any bona fide offer by a third party to purchase the Project (the "First Owner's Notice"). The city, town, or LHA shall have the right to purchase the Project at the same price and on the same terms as those contained in such bona fide offer (as more fully described in the HSF IV Legislation and the documents evidencing the HSF IV funding, the "Municipal Option"). The city, town, or LHA may exercise the Municipal Option by sending notice to the owner of its intention to exercise the Municipal Option by certified mail and recording/filing a copy of such notice in the registry of deeds or registry district of the land court within 60 days after its receipt of the First Owner's Notice (the "Municipal Option Exercise Deadline").

(b) If the city, town, or LHA fails to exercise the Municipal Option by the Municipal Option Exercise Deadline, the owner shall send a notice to the Department by regular and certified mail, return receipt requested, setting forth the owner's intention to sell, transfer, or otherwise dispose of the Project and the terms of any bona fide offer by a third party to purchase the Project (the "Second Owner's Notice"). The Department shall have the right to purchase the Project at the same price and on the same terms as those contained in the bona fide offer by a third party to purchase the Project (as more fully described in the HSF IV Legislation and the documents evidencing the HSF IV funding, the "Department Secondary Option"). The Department may exercise the Department Secondary Option by sending notice to the owner of its intention to exercise the Department Secondary Option by certified mail and recording/filing a copy of such notice in the registry of deeds or registry district of the land court within 120 days after its receipt of the Second Owner's Notice (the "Department Secondary Option Exercise Deadline"). In no event shall the Department Secondary Option Exercise Deadline be less than 120 days after the Municipal Option Exercise Deadline.

(c) If property on which the Project is located was not previously leased or sold to an owner by a city, town, or LHA, the owner shall send a notice to the Department by regular and certified mail, return receipt requested, setting forth the owner's intention to sell, transfer, or otherwise dispose of the Project and the terms of any bona fide offer by a third party to purchase the Project (the "Owner's Department Notice"). The Department shall have the right to purchase the Project at the same price and on the same terms as those contained in such bona fide offer (as more fully described in the HSF IV Legislation and the documents evidencing the HSF IV funding, the "Department Option"). The Department may exercise the Department Option by sending notice to the owner of its intention to exercise the Municipal Option by certified mail and recording/filing a copy of such notice in the registry of deeds or registry district of the land court within 120 days after its receipt of the Owner's Department Notice (the "Department Option Exercise Deadline").

(d) The city, town, LHA, or Department may assign the Municipal Option, the Department Secondary Option, or the Department Option, as the case may be, to a Qualified Developer. A Qualified Developer is a developer who:

- (i) has completed a Housing Stabilization Fund Application (or such equivalent application as may be in use at the time of the assignment) ("Application") with respect to its proposed purchase of the Project; the Department will issue a "Notice of Project Availability" that will include instructions for completing an Application for this purpose;
- (ii) has been selected to purchase the Project based on the city's, town's, LHA's, or Department's review and underwriting of the Application;
- (iii) agrees that, upon purchasing the Project, it will execute an Affordable Housing Restriction providing for the Project to remain an Eligible Project for a term of at least 50 years
- (iv) provides any due diligence materials not part of the Application that may be required by the city, town, LHA, or Department.

(e) If the city, town, LHA, or Department has exercised the Municipal Option, the Department Secondary Option, or the Department Option, as the case may be, then the city, town, LHA, Department, or its assignee who has been designated a Qualified Developer, shall have the right to purchase the Project:

- (i) the city, town, LHA, or its assignee shall have 120 days after the Municipal Option Exercise Deadline (i.e., 180 days after the city, town, or LHA's receipt of the First Owner's Notice) to purchase the Project.
- (ii) the Department, or its assignee, shall have 120 days after the Department Secondary Option Exercise Deadline (i.e., 180 days after the Department's receipt of the Second Owner's Notice) to purchase the Project.
- (iii) the Department, or its assignee, shall have 120 days after the Department Option Exercise Deadline (i.e., 180 days after the Department's receipt of the Owner's Department Notice) to purchase the Project.
- (iv) promptly upon request by the city, town, LHA, Department, or its assignee, the owner will provide the city, town, LHA, Department, or its assignee with such due diligence material and opportunity to inspect the Project as would be reasonably required by any third-party purchaser. The date for closing under the Municipal Option, Department Secondary Option, or Department Option may be extended by agreement of the parties and the agreed-upon extension shall be recorded/filed in the registry of deeds or registry district of the land court. The

city, town, LHA, Department, or its assignee may extend the date for closing to a reasonable date if it determines that additional time is needed due to delays in closing preparations caused by the owner. After exercising the Municipal Option, the Department Secondary Option, or the Department Option, the city, town, LHA, or Department, as the case may be, may at any time terminate the Municipal Option, Department Secondary Option, or the Department Option if it determines it is not in the best interests of the city, town, LHA, or Department to effect the purchase (but such termination right shall not apply to any assignee of the city, town, LHA, or Department).

(f) If the city, town, or LHA fails to exercise the Municipal Option by the Municipal Option Exercise Deadline and the Department fails to exercise the Department Secondary Option by the Department Secondary Option Exercise Deadline, the Municipal Option and the Department Secondary Option shall automatically terminate; however, if the sale contemplated in the offer by a third party is not effected on the same terms and conditions as those contained in the offer by a third party within six months after the Department's receipt of the Second Owner's Notice, the Municipal Option and the Department Secondary Option shall be revived. If the Department fails to exercise the Department Option by the Department Option Exercise Deadline, the Department Option shall automatically terminate; however, if the sale contemplated in the offer by a third party is not effected on the same terms and conditions as those contained in the offer by a third party within six months after the Department's receipt of the Owner's Department Notice, the Department Notice shall be revived.

(g) A city, town, or LHA may not use state funds to effect the purchase of the Project pursuant to the Municipal Option.

(h) The Department or its assignee may purchase the Project pursuant to the Department Secondary Option or the Department Option only for the purposes of preserving or providing affordable housing.

(3) The affordability restrictions applicable to Soft Second Mortgage loans made pursuant to 760 CMR 24.04(1)(d), shall be the restrictions generally in effect for that program at the time of application.

#### 24.06: Demolition

(1) Demolition - A privately owned building ~~as provided in St. 1993, c. 494, budget line item 3722-8900 or St. 1998, c. 257, budget line item 7004-8987~~ may be demolished if:

(a) it is vacant, abandoned, uninhabitable, and not economically feasible to rehabilitate; and

(b) demolition is in accordance with an approved Neighborhood Revitalization Plan for the area in which the demolition is undertaken.

(2) Neighborhood Revitalization Plans. The Chief Elected Official of any city or town may submit a Neighborhood Revitalization Plan to the Department for approval. If the Department finds the plan to satisfy the requirements herein, and to set out a sound plan for neighborhood revitalization, it shall approve the plan. Any such plan shall include, but not be limited to:

(a) a detailed description of the boundaries of the neighborhood subject to the plan;

- (b) an evaluation (including, where applicable, maps, site plans and photographs) of the properties in need of rehabilitation or demolition, including, where appropriate, documentation of the need for demolition;
- (c) housing goals;
- (d) a plan of action for achieving the housing goals, including, where applicable, projected dates of development and milestones for specific Projects and for the neighborhood generally (e.g., request for proposals, site control, permitting, demolition, construction, and occupancy);
- (e) a detailed presentation of all other funding sources to be used to implement the plan;
- (f) demonstration of the plans consistency with other duly adopted local land use planning objectives;
- (g) documentation that the plan was approved by the Chief Elected Official of the city or town, acting with proper authority and after a public hearing, and that the public will be able to participate in the plans implementation; and
- (h) such other information as may be required in the HSF Guidelines.

#### 24.07: Application Process and Administrative Fees

The HSF application process and administrative procedures and fees shall be established from time to time by the Department in the HSF Guidelines.

#### 24.08: Findings

In approving Projects that will receive funding through the HSF, the Department shall make the following findings:

- (1) that the housing would not by private enterprise alone and without government assistance be available to Low or Moderate Income Persons or Families.
- (2) that the amount of the assistance appears to be the minimum amount necessary to make the Project feasible;
- (3) that with respect to rental housing, the operations of the owner, including any pertinent articles of organization and bylaws, and any changes in management operations or corporate structure, will be subject to regulation by the Department, except for housing meeting the requirements of 760 CMR 24.04(2);
- (4) that, subject to the requirements of 760 CMR 24.05 (1), ~~and~~ (2) and (3), the housing shall remain affordable for its useful life as determined by the Department, except for housing meeting the requirements of 760 CMR 24.04(2); and
- (5) that provision of the housing will be of public benefit and for a public purpose.

#### 24.09: Waiver by Director of Department

The Director of Department may waive, in writing, any provision of 760 CMR 24.00 not required by statute if he or she determines that such action is reasonably required, in the public interest, and will not derogate from the statutory purposes.

REGULATORY AUTHORITY: St. 1993, c. 494, budget line item 3722-8900; St.1998, c.257, budget line item 7004-8987; St. 2002, c.244, budget line item 7004-7014; **St. 2005, c.53, budget line item 7004-0022**; M.G.L. chs. 23B and 6A.